

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

20230930-DK-BUTTERFLY-1, INC., f/k/a  
BED BATH & BEYOND INC.,

Plaintiff,

– v. –

HBC INVESTMENTS LLC and  
HUDSON BAY CAPITAL  
MANAGEMENT LP,

Defendants.

ECF CASE

24-cv-3370 (MKV) (SN)

**DECLARATION OF JAMES A. HUNTER IN SUPPORT  
OF LETTER MOTION OF PLAINTIFF 20230930-DK-BUTTERFLY-1, INC.  
(f/k/a BED BATH & BEYOND INC.) FOR LEAVE TO FILE SEALED RESPONSE  
TO MOTION TO DISMISS WITH REDACTED VERSION ON THE PUBLIC DOCKET**

JAMES A. HUNTER hereby declares under 28 U.S.C. § 1746 as follows:

1. I represent Plaintiff 20230930-DK-Butterfly-1, Inc., f/k/a Bed Bath & Beyond Inc. (“BBBY”), in the case captioned above. I am licensed to practice law in the States of New York and Pennsylvania and have been admitted to practice before this Court. I submit this declaration in support of BBBY’s letter motion for leave to file a sealed response to the motion to dismiss its complaint, with a redacted version of the response on the public docket.

2. This declaration is made based on my personal knowledge. If called to testify in this matter, I would testify consistently with the statements made herein.

3. On April 30, 2024, this Court, per the Honorable John G. Koeltl as Part 1 Judge, granted BBBY’s unopposed motion to file its complaint in this case under seal. *See Order to File Redacted Complaint at 1, 20230930-DK-Butterfly-1, Inc. v. HBC Investments LLC*, No. 24-mc-206 (JGK) (S.D.N.Y. Apr. 30, 2024) (Dkt. 4).

4. Because the Court has not publicly released a copy of Judge Koeltl's order or BBY's motion, both of which remain restricted from public view through the Court's CM/ECF system, I am not attaching copies of them to this declaration. They are available for the Court's inspection at Docket Nos. 1 and 4 in No. 24-mc-206 (JGK).

5. On May 2, 2024, in compliance with Judge Koeltl's order, I filed (a) an unredacted copy of BBY's complaint in this case under seal with the Court, in the traditional manner on paper; and (b) a redacted copy of BBY's complaint on the public docket in the form approved by Judge Koeltl. *See* No. 24-cv-3370 (MKV) (SN), Dkts. 1, 3. The unredacted complaint remains under seal as of the date hereof.

6. Today I am presenting for filing redacted and unredacted versions of BBY's response to the motion to dismiss its complaint under Rule 12(b)(6). The redacted version of the response is submitted for filing on the public docket, while the unredacted version is submitted for filing under seal. I am filing both versions of the response through the Court's CM/ECF system in accordance with this Court's Standing Order on such submissions, *see In re Elec. Filing Under Seal in Civil and Misc. Cases*, No. 19-mc-583-CM (S.D.N.Y. Dec. 19, 2019), and in accordance with the Court's ECF Rules and Instructions and this Court's Individual Rules of Practice in Civil Cases.

7. The proposed redactions to the public version of BBY's response withdraw from public inspection only such information as was redacted from the public version of BBY's complaint approved for filing by Judge Koeltl. I have not redacted any information beyond the information redacted in the public version of BBY's complaint.

8. As BBY explained in its motion to file a sealed complaint in No. 24-mc-206-JGK, the redactions to the public version of the complaint were necessary to preserve the

confidentiality of proprietary information BBY obtained from one of the Defendants in this case. Defense counsel has informed me of the sensitive nature of such information and the harm that would result from its disclosure. BBY's motion weighed the sensitive and proprietary nature of the information against the competing interest in public access, and based on those considerations the Court ordered the unredacted complaint sealed.

I declare under penalty of perjury that the foregoing is true and correct. Executed on September 6, 2024.

/s/ James A. Hunter

James A. Hunter